

For Internal Review Only
Meeting Notes
Federal Communications Commission
July 16, 2002

The Federal Communications Commission (Commission) held its monthly Open Meeting on July 16, 2002. FCC Chairman Michael K. Powell called the meeting to order. The Secretary of the Commission, Marlene H. Dortch, read the agenda. Three items were scheduled for deliberation that day, the last of which directly concerned public safety communications issues. In addition, several changes in the Commission's staff were announced, as some personnel were given new responsibilities within the FCC, and others left the Commission for positions with other agencies or retired. The Commission published notice of those changes later that day. Mr. Robert Giarrusso, PSWN Program Contractor Support, attended the meeting on behalf of the Public Safety Wireless Network Program.

Ms. Marcie Green, an attorney with the Commission's Wireline Competition Bureau, presented the first topic. She addressed the issue of a proposed Third Report and Order (Third R&O) on CC Docket No. 96-149, regarding the adoption of Rules to regulate the dissemination and use of customer proprietary network information (CPNI). Ms. Green requested that the Commission adopt the measure, allowing the Bureau editorial privileges, pointing out that § 222 and not § 272 of the Commission's Rules applied to CPNI.

Commissioners Kathleen Abernathy and Kevin Martin voted with Chairman Powell to adopt the new Rule, which would require the carrier to request permission from customers before providing CPNI to third parties (i.e., the "opt-in" requirement). The Rule would also allow such information to be shared with affiliates unless the customer took the active step of notifying the carrier that he or she did not sanction any further transfer of information (i.e., the "opt-out" requirement). Commissioner Michael Copps dissented, in part, from adoption of the Rule, which he argued did not provide sufficient protection of privacy in the case of the provision of CPNI to affiliates of the carrier. Instead, he recommended that the less permissive "opt-in" requirement should apply to affiliates. He further noted that joint-venture partners could access CPNI to sell their services to consumers and that the term "affiliates" was not narrowly defined.

The Wireless Telecommunications Bureau (WTB) offered the second item on the agenda. Ms. Jennifer Salhus, attorney-advisor for the WTB policy division, presented the item. The action concerned a petition for permanent forbearance from wireless local portability requirements by Verizon, on CC Docket No. 95-116. The Memorandum of Opinion and Order (MO&O) adopted by the Commission denied the request for permanent forbearance; however, Verizon was permitted to delay implementation of number portability until November 24, 2003. Commissioner Copps and Chairman Powell voted in favor of the MO&O, while Commissioner Abernathy dissented regarding the extension of the deadline. Commissioner Martin supported the MO&O, but dissented in the standard adopted by the Commission to evaluate petitions for forbearance in the future. The Commission noted that the requirement to begin the number pooling initiative was still slated to occur in November 2002.

The final item on the Commission agenda, also initiated by the WTB, concerned the migration to a narrowband standard of 6.25 kilohertz (kHz) for voice and data transmissions on

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the 700 megahertz (MHz) public safety band. Mr. Thomas Sugrue, Chief of the WTB, introduced the item. Mr. Sugrue then introduced Ms. D'wana Terry, Chief of the Public Safety and Private Wireless Division of the WTB. Ms. Terry gave a brief history of the WT Docket No. 96-86, "*In the Matter of the Development of Operational Technical and Spectrum Requirements for Meeting Federal, State, and Local Public Safety Agency Communication Requirements Through the Year 2010*," since its inception in 1998 with the initial 24 MHz allocation for public safety communications. She noted that the band plan for the 700 MHz public safety plan would be similar to the band plan developed for the 800 MHz channels.

Ms. Terry further clarified that 12.5 MHz of that spectrum had been allocated for general use; 2.6 MHz was earmarked for interoperability purposes; and 2.4 MHz was designated for geographic licenses based on state boundaries, under the control of the governors of each state or their appointees. Ms. Terry added that the latter spectrum was typically used for low-power applications, such as on-scene communications by firefighting personnel, not to exceed 2 watts signal strength. She explained that the remaining 6.5 MHz was being held in reserve, probably to be used for either high-speed data transmission or interoperability. Ms. Terry noted that 41 of the 55 regions nationwide had commenced the planning process. Thirty-three states would administer the public safety spectrum through State Interoperability Executive Committees (SIEC), while the other eight jurisdictions would delegate those responsibilities to the regional planning committees (RPC), which recommended spectrum usage plans to the Commission for approval.

Ms. Terry also acknowledged the accomplishments of the Public Safety National Coordination Committee (NCC) in contributing to the Commission's development of Rules and procedures. Chartered under the Federal Advisory Committee Act (5 U.S. Code § 3102), the NCC's term was extended last year by the Commission to permit the committee to serve in its current capacity until February 2003. Ms. Terry specifically thanked NCC Chair Kathy Wallman for her role in drafting Rules for the 700 MHz public safety interoperability spectrum, including advocating the adoption of the Project 25 standard and other technical and operational requirements.

Ms. Terry added that the Commission was making every effort to encourage voluntary migration of the incumbent analog television licensees from channels 63, 64, 68, and 69—which were allocated for public safety purposes in 1998—before the December 31, 2006, deadline for transition to digital broadcasting. She noted that Commission Chairman Powell had formed the Digital Television (DTV) Task Force last year to hasten that transition and to free the much-needed spectrum for public safety use. Ms. Terry observed that the spectrum had already been cleared in many areas, although it remained occupied by the incumbent broadcasters in many of the larger urban markets. She stated the delay in access to that spectrum had a negative impact on public safety planning initiatives and delayed the purchase of necessary equipment and systems.

Ms. Terry also advised the attendees of the current proposal before the Commission offered by the Telecommunications Industry Association (TIA) that would set emissions standards in the interoperability channels. She added that the WTB was expecting a

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recommendation from the NCC for a wideband interoperability standard and that more regional plans for licensing that spectrum were anticipated from the SIECs and RPCs.

Ms. Terry then introduced Alberto Mussenden, attorney-advisor for the Public Safety and Private Wireless Division of the WTB, who presented the proposed Rule. He stated that the purpose of the new Rule was to ensure efficient and effective use of the 700 MHz public safety band without hindering the introduction and use of new technologies and equipment. The proposed Rule would set a deadline of December 31, 2006, for the shipment of any equipment that used the 12.5 kHz standard, but would permit legacy licensees further use of equipment using the 12.5 kHz standard until December 31, 2016. After that date, all public safety spectrum users in the 700 MHz band would be required to use equipment that operated on the more efficient 6.25 kHz standard. As with the other proposed Rules presented that day, Mr. Mussenden requested that in addition to adopting the Rule, the Commission grant the WTB editorial privileges, as commonly occurred in rulemaking proceedings.

The Commission unanimously adopted the Fifth R&O. Commissioner Abernathy also thanked Ms. Wallman and the NCC for their cooperation and noted that the Commission was sensitive to fulfilling the needs of the public safety community and looked forward to working with its leaders in the future. Commissioner Copps added that he favored the Rule because it not only gave the public safety community legitimate expectations for making the transition, but provided equipment manufacturers a date certain for implementing the new technology. He specifically commended the Public Safety and Private Wireless Division of the WTB and stated that the Commission “doesn’t do anything more important than supporting public safety” through the allocation and rulemaking process. Commissioner Martin and Chairman Powell also briefly noted their enthusiastic support of the measure.

The next Open Meeting was tentatively scheduled for August 8, 2002, at 9:30 a.m., in the Commission’s Meeting Room.